

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

TRIAL NOTICE AND
FINAL PRETRIAL ORDER

The cases appearing on the attached list have been scheduled for trial before Chief Judge Patrick J. Schiltz beginning on **Monday, February 5, 2024, at 1:30 p.m. in Courtroom 1 at the Gerald W. Heaney Federal Building, 515 West First Street, Duluth, Minnesota.**

PRETRIAL CONFERENCE

A pretrial conference will be conducted by Judge Schiltz on **Monday, February 5, 2024, at 9:00 a.m. in Courtroom 1 at the Gerald W. Heaney Federal Building, 515 West First Street, Duluth, Minnesota.** All attorneys who will try the case must attend.

INSTRUCTIONS FOR ALL CASES

1. **Submitting Documents.** All documents (except exhibits) must be filed electronically. Two courtesy copies of every document must be delivered to the chambers of Judge Schiltz. Judge Schiltz prefers those courtesy copies to be three-hole punched and unstapled (and, if warranted, appropriately tabbed). Exhibits must not be filed or delivered to Judge Schiltz unless he specifically requests.

2. **Trial Briefs.** Each party must file a trial brief by **Friday, January 19, 2024.** In its trial brief, a party must include the following information:

- a. **Trial Counsel.** The party must list the names, addresses, telephone numbers, fax numbers, and email addresses of the attorney(s) who will try the case.
- b. **Jury/Non-Jury.** The party must state whether the case is to be tried to a jury or to the Court.
- c. **Length of Trial.** The party must provide a realistic estimate of the length of the trial, including, if applicable, jury selection and jury charge.

- d. **Jurisdiction.** The party must identify the basis for federal jurisdiction of each cause of action.
- e. **Facts.** The party must provide a brief summary of the facts that the party intends to prove at trial.
- f. **Claims or Defenses.** The party must briefly describe each cause of action—including, if applicable, each claim, counterclaim, and cross-claim—and any affirmative defenses that will be tried.
- g. **Unresolved Issues.** The party must identify any substantive, evidentiary, or procedural issues that remain unresolved. The party must briefly describe the party's position on the unresolved issues and identify the primary legal authority on which the party relies.

3. **Exhibits.**

- a. By **Friday, January 12, 2023**, the parties must exchange lists of the exhibits that they intend to offer at trial and make those exhibits available to the other parties for examination and copying.
- b. By **Friday, January 19, 2024**, each party must file its exhibit list and provide two courtesy copies of the list to the Court.
- c. Plaintiff must mark its first exhibit as "P-1" and number the others sequentially. Defendant must mark its first exhibit as "D-1" and do likewise. The case number must appear on each exhibit.
- d. Only exhibits that are identified on the exhibit list may be offered at trial, unless the omission is excused for good cause.
- e. Within 7 days after the trial, the parties must submit to the Court a disk containing copies of all exhibits that were admitted at trial.

4. Witness Lists.

- a. By **Friday, January 12, 2023**, the parties must exchange lists of the witnesses whom the parties intend to call at trial, as well as a brief description of the substance of the expected testimony of each witness. No person who is not identified on a party's witness list may testify at trial, unless the omission is excused for good cause.
- b. By **Friday, January 19, 2024**, each party must file and provide two courtesy copies of its witness list to the Court.

5. Deposition Designations. By **Friday, January 12, 2023**, the parties must exchange lists of the specific deposition testimony that they intend to offer at trial as substantive evidence (rather than to impeach). No deposition testimony that is not identified on a party's list may be offered at trial as substantive evidence, unless the omission is excused for good cause.

6. Motions in Limine. All motions in limine must be filed by **Friday, January 19, 2024**, and responses to all such motions must be filed by **Wednesday, January 24, 2024**. No party may file more than five motions in limine except in extraordinary circumstances and with the prior permission of the Court. Each motion in limine must be limited to one discrete issue. No brief in support of, or in opposition to, any motion in limine may exceed 3000 words. No reply brief may be submitted with respect to any motion in limine without the prior permission of the Court.

7. Stipulations and Settlement. The parties are strongly encouraged to meet in advance of trial, to make every effort to settle the case, and, if settlement is not reached, to make every effort to agree on as many trial-related matters as possible, such as facts that may be treated as established and exhibits that may be treated as authentic.

8. Sanctions. The failure of any party to comply with any of the instructions contained in this Order will result in the imposition of appropriate sanctions.

9. Daily transcripts. If any party intends to order daily transcripts of the trial, that party should contact Judge Schiltz's court reporter, Paula Richter, as soon as possible, so that she can make arrangements for other court reporters to assist her during the trial. Ms. Richter's email address is paula_richter@mnd.uscourts.gov.

ADDITIONAL INSTRUCTIONS FOR JURY TRIALS

1. **Proposed Voir Dire.** During voir dire, Judge Schiltz will do all of the questioning of prospective jurors. By **Friday, January 19, 2024**, a party must file any questions that it wants Judge Schiltz to ask.

2. **Joint Introduction to the Case.** By **Friday, January 19, 2024**, the parties must **jointly** file a proposed introduction to the case that Judge Schiltz can read to prospective jurors during voir dire. The introduction should briefly describe the parties, the major issues, the plaintiff's position, and the defendant's position.

3. **Joint List of Parties, Attorneys, and Witnesses.** By **Friday, January 19, 2024**, the parties must **jointly** file an alphabetized list of the names of all parties, attorneys, and witnesses. Judge Schiltz may provide that list to prospective jurors during voir dire. A Word or WordPerfect version of the joint list of parties, attorneys, and witnesses must be emailed to Judge Schiltz's chambers.

4. **Proposed Jury Instructions.**

- a. No later than **Friday, January 12, 2023**, the parties must exchange proposed jury instructions. The parties must then meet and confer and make every effort to resolve disagreements over those proposed instructions.
- b. Each party must file its proposed jury instructions by **Friday, January 19, 2024**. A Word or WordPerfect version of the proposed instructions must be emailed to Judge Schiltz's chambers.
 - i. Each proposed instruction must be numbered, appear on a separate page, and identify supporting legal authority.
 - ii. Any citation to a set of model jury instructions or a jury-instruction treatise must be to the current version of the cited source unless a party has good cause to cite an older version and explains why it is citing the older version.

5. **Proposed Special Verdict Form.** No later than **Friday, January 12, 2023**, the parties must exchange proposed special verdict forms. The parties must then meet and confer and make every effort to resolve disagreements over the proposed special verdict

form. If the parties reach agreement, the proposed form must be filed by **Friday, January 19, 2024**. If they do not reach agreement, the parties must file their own proposed forms by **Friday, January 19, 2024**. A Word or WordPerfect version of the proposed special verdict form must be emailed to Judge Schiltz's chambers.

ADDITIONAL INSTRUCTIONS FOR NON-JURY TRIALS

1. Proposed Findings of Fact and Conclusions of Law. By **Friday, January 19, 2024**, each party must file proposed findings of fact and conclusions of law. For each proposed finding of fact, the party must identify the witnesses or exhibits that will support the finding. For each proposed conclusion of law, the party must cite legal authority that supports the conclusion. A Word or WordPerfect version of the proposed findings of fact and conclusions of law must be emailed to Judge Schiltz's chambers.

Dated: August 29, 2023

s/Patrick J. Schiltz

Patrick J. Schiltz, Chief Judge
United States District Court

SUMMARY OF DEADLINES

By Friday, January 12, 2023:

- ☐ Exchange lists of exhibits and make exhibits available
- ☐ Exchange witness lists
- ☐ Exchange deposition designations
- ☐ Exchange proposed jury instructions
- ☐ Exchange proposed special verdict forms

By Friday, January 19, 2024:

File and serve:

- ☐ Trial briefs
- ☐ List of exhibits
- ☐ Witness lists
- ☐ Motions in limine
- ☐ Proposed voir dire
- ☐ Joint introduction to the case
- ☐ Joint list of parties, attorneys, and witnesses
- ☐ Proposed jury instructions
- ☐ Proposed special verdict form(s)
- ☐ Proposed findings of fact and conclusions of law (bench trials only)

Send to Judge Schiltz's Chambers:

Via overnight delivery, U.S. Mail, or courier:

- ☐ Two courtesy copies of all filed documents

Via email to schiltz_chambers@mnd.uscourts.gov:

- ☐ Word or WordPerfect versions of joint list of parties, attorneys, and witnesses; proposed jury instructions; proposed special verdict forms; and proposed findings of fact and conclusions of law (bench trials only)

By Wednesday, January 24, 2024:

- ☐ File and serve responses to motions in limine. Send two courtesy copies to Judge Schiltz's chambers.

Monday, February 5, 2024: Pretrial conference at 9:00 a.m. before Judge Schiltz.

Monday, February 5, 2024: Trial begins at 1:30 p.m. before Judge Schiltz.

February Trial List

1. 22-0491	James Paul Aery v. Kyle Nohre	Jury, 3 days
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Plaintiff:

Pro Se

Defendant:

Dyan Ebert

320-251-1415

Elle Lannon